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Eric T Jones
Reising Ethington Barnes Kisselle Learman &
McCulloch
P O Box 4390
Troy, MI 48099-4390

EXAMINER

GEHMAN, BRYON P

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 10/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/523,757

Applicant(s)

SMYTH, IAIN

Examiner

Bryon P. Gehman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-33 is/are rejected.
- 7) ☒ Claim(s) 23 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 6/7/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The terminology of claim 25, i.e. "first second and third elements", "first and second protective regions" and "first and second carriage elements" are not described in the specification nor apparent from the disclosed to structure to render the claimed structure correlating to the disclosed structure.
3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. Claim 25 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The incongruity of the language of claim 25 with respect to the disclosed structure as described in the specification renders the claim indefinite.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 19-25 and 27-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 9-10, "the connections" lack antecedent basis for plural connections, as while the panels are connected, they are connected only once and "connections" is never defined.

In claim 21, line 2, "the further flap" lacks antecedent basis as a term, as while a flap is further defined, it is not designated in any manner as a "further flap". See also claim 24, lines 2 and 4.

In claim 23, lines 4-5, "the carriage" lacks antecedent basis and apparently be --the carriage panel--.

In claim 24, line 1, the recited dependency "as claimed in claim 23 when dependent from claim 22" is improper and indefinite, as claim 23 is an independent claim and only refers to the "blank" of claim 19 as a shorthand method of incorporating those limitations into claim 23. It appears a proper recitation in the first line of claim 24 would be --A method as claimed in claim 23 of forming a case from a blank as claimed in claim 22, --.

In claim 25, the general language of the entire claim has no correlation to that of the specification and such renders the scope and meaning of the claim indefinite in light of the specification. In line 5, "the first hinge" lacks antecedent basis, as "a hinge region"

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is not clearly antecedent for a "first hinge" nor is a "region" of three elements distinguish a single "hinge". In line 6, "a second carriage element" is indefinite, as no first carriage element has been defined. It appears that "first carriage" in line 4 should be --a first carriage element--.

In claim 27, line 3, "a carriage" is indefinite, as it is unclear how it relates to or distinguishes from the previously defined "carriage" of claim 26, line 2. In line 4, "one of the at least one intermediate element" is indefinite, as such indicates multiple intermediate elements, which contradicts the previous recitation of "at least one intermediate element", which indicates one or more. The phraseology should be --one at least one intermediate element--.

In claim 28, lines 1-3, "the front and rear portions" lack antecedent basis.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 19, 26-30 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Sherman (6,505,737). As to claim 19, disclosed is a blank (see Figure 6A and the attached sheet for element designations) comprising a first panel connected to a second

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panel, a third panel connected to the second panel so that the third panel can be folded over the second panel to form a protected region, a carriage panel connected to a pocket panel so that the pocket panel can be folded over the carriage panel to form a pocket, and an intermediate panel connected to the carriage panel, and the intermediate panel joins the first panel along a boundary at right angles to the connection between the first and second panels.

As to claim 26, disclosed is a case for an object, the case comprising a first portion (lower portion 36 in Figure 3A) hingeably attached to a second portion (upper portion 36), and a carriage (B' and U') for holding the object, the carriage movable in response to the movement of the first portion with respect to the second portion - between a first position (described collapsed position) where the object is in a protected space and a second position (described display position) where the object is presented for removal from the case, and the carriage is hingeably attached to the first portion by a hinge (offset from the hinge (42) connecting the first and second portions).

As to claim 27, an intermediate element (described first panel of Figure 6A) is provided between the first and second portions.

As to claim 28, front and rear portions (carriage and pocket panels of shown Figure 6A) are disclosed.

As to claim 29, the portion (U) appears to provide the described function.

As to claim 30, a pocket for additional articles is disclosed at 37.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman ('737) in view of Kleinfelder (5,647,482). Kleinfelder discloses a blank for manufacturing a case, the blank including additional flaps (6, 7 or 22) that serve to secure the content within the manufactured case or secure the panels of the case to one another. To modify the blank of Sherman employing additional flaps in the manner suggested by Kleinfelder would have been obvious in order to close off the ends of the panels or engage contents of the panels, as suggested by Kleinfelder.

11. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman ('737) in view of Wharton (6,557,700). Wharton discloses employing a case for either CDs or pharmaceutical products interchangeably. To employ the CD case of Sherman for appropriately shaped pharmaceutical products would have been obvious in view of the teaching of Wharton.

12. Claim 23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the

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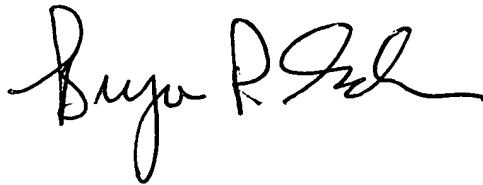
limitations of the base claim and any intervening claims. Dependent claim 24, if amended in view of 112, would also then be allowable.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are similar CD cases made form blanks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 7:00am to 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG

